

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 BEAUMONT DIVISION

4 _____
5 CALEB BUTLER and JEREMY

6 PENNINGTON,

7 Plaintiffs,

8 v.

Case No.

9 BNSF RAILWAY COMPANY,

1 :22-cv-00367-MJT

10 Defendant.

11 _____
12 VIDEOTAPED DEPOSITION OF JEREMY PENNINGTON

13 DATE: Tuesday, December 13, 2022

14 TIME: 9:08 a.m.

15 LOCATION: Martinez & McGuire, PLLC

16 17227 Mercury Drive, Suite B

17 Houston, TX 77058

18 REPORTED BY: John Shavers, Notary Public

19 Job No. CS5591181

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EXHIBIT I

<p style="text-align: right;">Page 158</p> <p>1 Q How well do you know Dentin? 2 A I've talked to him on the phone. He said if 3 I ever — because of the situation that I was in, in 4 Beaumont, to call him, but I only talked to him one 5 other time.</p> <p>6 Q Do you feel like Mr. Chapman retaliated 7 against you?</p> <p>8 A No.</p> <p>9 Q Do you feel like Mr. Thompson retaliated 10 against you?</p> <p>11 A No.</p> <p>12 MR. FLOYD: All right. I think this 13 pulled up now. I want to show you — oh, gosh. Of 14 course, this is going slow. Do you want to take a 15 look at this before I — it's just his investigation 16 letter from November 21.</p> <p>17 MR. MCGUIRE: That's all right.</p> <p>18 MR. FLOYD: All right.</p> <p>19 BY MR. FLOYD:</p> <p>20 Q I'm going to show you what is — it's an 21 investigation letter from November 30, 2021, addressed 22 to you, that says, "An investigation has been 23 scheduled at 1100 hours" —</p> <p>24 A Oh, yes, I do recall that.</p> <p>25 Q — "for December 15th."</p>	<p style="text-align: right;">Page 160</p> <p>1 A Because I was already going to quit. 2 Q When did you decide that you were going to 3 quit?</p> <p>4 A The moment that Jeff gave me the cold 5 shoulder at the crew office because I wanted to go 6 back to working. I felt like I did nothing wrong at 7 the time, all the way up, and I felt like I was still 8 going to be retaliated against, against him, because 9 he had made a statement that I'm never talking to that 10 guy again. And Dentin told him, "Yes, you are because 11 that's your job." And then when I was cold-shouldered 12 at the crew office, I felt like I couldn't go back to 13 work, in a normal situation, a normal setting, because 14 I had been harassed by this guy.</p> <p>15 I had been threatened by this guy, and I had 16 been lied to. And now, he's doing exactly what he 17 said he was going to do to this other guy, to me. I 18 was already getting — working on getting my teaching 19 certification. I had already gotten hired at Beaumont 20 United. I didn't want to go work there. So, I waited 21 until the end of the year, when I found a job that I 22 could at least feel more comfortable with.</p> <p>23 Q All right. So, I think the timeline on this 24 is important. So, the cold shoulder situation that 25 you just described happened, you said, about a month</p>
<p style="text-align: right;">Page 159</p> <p>1 A You're right. I did get an investigation 2 letter, and then when I took responsibility for it, 3 and they gave me --</p> <p>4 Q Okay. I just wanted to clear that up. I 5 just wanted to clear — all right. So, after this 6 incident, you did get another investigation letter and 7 another investigation hearing was scheduled with BNSF, 8 right?</p> <p>9 A Yeah.</p> <p>10 Q Did you have —</p> <p>11 A My union reps told me, "Don't worry about 12 it." They're going to — why don't you take the admit 13 you were at fault, and it'll go away.</p> <p>14 Q So, you didn't have similar concerns about 15 the second investigation that you did the first one 16 because your union?</p> <p>17 A I just — I already knew what I was going 18 into at that point. I was already out the door, to be 19 honest with you, man.</p> <p>20 Q Okay.</p> <p>21 A I was just trying to get to the first of the 22 year.</p> <p>23 Q Why is that?</p> <p>24 A I didn't — huh? Why?</p> <p>25 Q Yeah.</p>	<p style="text-align: right;">Page 161</p> <p>I after the investigation. So, that would've been 2 sometime in mid-November, roughly?</p> <p>3 A Probably.</p> <p>4 Q And that was —</p> <p>5 A I said about a month.</p> <p>6 Q Sure, sure. And I get it. It doesn't —</p> <p>7 A It was prior to me putting the car in the 8 ground.</p> <p>9 Q But it was somewhere in there, in November, 10 that that was when you said, "All right. I'm leaving. 11 I'm done." All right.</p> <p>12 A I was already pretty much at that 13 conclusion, prior to that, because of the stress. But 14 when that happened, it was like that was the final 15 straw.</p> <p>16 Q All right.</p> <p>17 A Because I feel like I couldn't go back to 18 work without — what's going to happen next time I get 19 in trouble. They tried to — they told me they were 20 going to fire me over something I didn't do. I was 21 doing my job. And so, what happens when I really — 22 something does happen?</p> <p>23 Q All right.</p> <p>24 A Then it did happen.</p> <p>25 Q Let's — I'll give everybody a copy. This</p>

<p style="text-align: right;">Page 186</p> <p>1 tie brakes.</p> <p>2 Q Okay. Do you happen to have a copy of any 3 of the exhibits or anything like that, that was 4 presented at the investigation hearing?</p> <p>5 A No, I forwarded everything I have to my 6 lawyers.</p> <p>7 Q Okay. Do you know if by chance maybe your 8 union rep or one of the other guys' union reps was 9 recording the investigation?</p> <p>10 A No.</p> <p>11 Q No? All right. I think that's all the 12 questions I've got for you, Mr. Pennington. So, it's 13 been a long day, but I think I'm done. I'll pass the 14 witness.</p> <p>15 MR. MCGUIRE: We'll reserve ours for 16 the time of trial. He will read and sign. And I'll 17 order a copy of the transcript. Steve doesn't need 18 one.</p> <p>19 MR. FLOYD: I'll take a copy of the 20 transcript and a copy of the video.</p> <p>21 VIDEOGRAPHER: Okay. That's it. Okay. 22 Can I go – this will conclude the deposition for Mr. 23 Pennington. We are off the video record at 12:44 p.m. 24 (Whereupon, at 12:44 p.m., the 25 proceeding was concluded.)</p>	<p style="text-align: right;">Page 188</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, SONYA LEDANSKI HYDE, do hereby certify 3 that this transcript was prepared from the digital 4 audio recording of the foregoing proceeding, that said 5 transcript is a true and accurate record of the 6 proceedings to the best of my knowledge, skills, and 7 ability; that I am neither counsel for, related to, 8 nor employed by any of the parties to the action in 9 which this was taken; and, further, that I am not a 10 relative or employee of any counsel or attorney 11 employed by the parties hereto, nor financially or 12 otherwise interested in the outcome of this action.</p> <p>13</p> <p>14 </p> <p>15 SONYA LEDANSKI HYDE</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 187</p> <p>1 CERTIFICATE OF NOTARY PUBLIC</p> <p>2 I, JOHN SHAVERS, the officer before whom the 3 foregoing proceedings were taken, do hereby certify 4 that any witness(es) in the foregoing proceedings, 5 prior to testifying, were duly sworn; that the 6 proceedings were recorded by me and thereafter reduced 7 to typewriting by a qualified transcriptionist; that 8 said digital audio recording of said proceedings are a 9 true and accurate record to the best of my knowledge, 10 skills, and ability; that I am neither counsel for, 11 related to, nor employed by any of the parties to the 12 action in which this was taken; and, further, that I 13 am not a relative or employee of any counsel or 14 attorney employed by the parties hereto, nor 15 financially or otherwise interested in the outcome of 16 this action.</p> <p>17</p> <p>18</p> <p>19 </p> <p>20 JOHN SHAVERS</p> <p>21 Notary Public in and for the STATE OF TEXAS</p> <p>22 [X] Review of the transcript was requested.</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 189</p> <p>1 Clint E. McGuire, Esquire 2 clint@mmttriallawyers.com 3 December 29th, 2022 4 RE: Butler, Caleb, Et Al. v. BNSF Railway Company 5 12/14/2022, Jeremy Pennington (#5591181) 6 The above-referenced transcript is available for 7 review. 8 Within the applicable timeframe, the witness should 9 read the testimony to verify its accuracy. If there are 10 any changes, the witness should note those with the 11 reason, on the attached Errata Sheet. 12 The witness should sign the Acknowledgment of 13 Deponent and Errata and return to the deposing attorney. 14 Copies should be sent to all counsel, and to Veritext at 15 (erratas-cs@veritext.com). 16 17 Return completed errata within 30 days from 18 receipt of testimony. 19 If the witness fails to do so within the time 20 allotted, the transcript may be used as if signed. 21 22 Yours, 23 Veritext Legal Solutions 24 25</p>

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